

ORDINANCE NO. 0-86-11

AN ORDINANCE EMPLOYING THE CONWAY CORPORATION TO OPERATE THE WATERWORKS SYSTEM AND THE SANITARY SEWER SYSTEM OF THE CITY OF CONWAY, ARKANSAS; ESTABLISHING THE DUTIES AND RESPONSIBILITIES OF SUCH EMPLOYEE; AND FOR OTHER PURPOSES.

WHEREAS, the waterworks system (the "Water System") and the sanitary sewer system (the "Sewer System") heretofore constructed within the City of Conway are owned by the City of Conway, Arkansas (the "City"); and

WHEREAS, the Conway Corporation, an Arkansas nonprofit corporation (the "Corporation"), has heretofore acquired and will hereafter acquire the materials, equipment, labor, management and engineering necessary to better maintain, repair, construct, reconstruct and operate the Water System and the Sewer System, and has, at the request of said City, heretofore performed such services in a proper, efficient and satisfactory manner for an extended period of time, and has indicated its willingness to continue to assume the full responsibility for operating such systems;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CONWAY, ARKANSAS:

SECTION 1. The City does hereby approve, ratify and affirm all acts, deeds and things heretofore done or performed by the Corporation in operating, managing, maintaining, repairing, constructing, reconstructing, billing, collecting moneys, paying bills, or otherwise, both the Water System and the Sewer System.

SECTION 2. The City authorizes and requests the Corporation to continue to undertake and assume the full responsibility of and for the entire construction of improvements to and the operation of each of said systems, subject to lawful directions of the City and the laws of the State of Arkansas, and under the following conditions.

A. The Corporation shall perform, or shall secure the performance of, all maintenance, repairs, design, construction, reconstruction or other work upon all portions of each of said systems, and in a prudent and efficient manner.

B. The Corporation shall render all billings for water consumed and for sewer service charges to all customers or recipients of service from either of said systems, shall collect all moneys or sums due upon such billings, and shall pay therefrom all expense or costs incurred by, for or on behalf of each of said systems, including appropriate portions of joint payroll and other expenses or costs incurred by the Corporation for, on behalf of, or as the result of operating each of said systems. The Corporation shall at all times maintain accurate and complete records and accounts in which complete and correct entries shall be made of all transactions relating to each of said systems, and shall cause such accounts and records to be audited annually by an independent certified public accountant. Separate records and accounts shall be maintained for the Water System and the Sewer System, and such separate records and accounts shall be separately audited. Immediately upon completion of each such audit the Corporation shall furnish the City with copies thereof as needed. Copies of each audit of the Water System shall be supplied to the Trustee of each of the bond issues of the City then outstanding and payable from revenues of the Water System. Copies of each audit of the Sewer System shall be supplied to the Trustee of each of the bond issues of the City then outstanding and payable from revenues of the Sewer System.

C. The Corporation shall, from time to time, make recommendations to the City Council of the City concerning water and sewer rates. The City Council shall maintain water rates (including increases from time to time as necessary) which will provide adequate revenues to cover the costs of (1) operation and maintenance of the Water System, (2) payment of the debt service requirements on all bonds payable from revenues of the Water System, (3) plant expansion and (4) necessary and reasonable surpluses and reserves. The City Council shall also maintain sewer rates (including necessary increases) which will provide adequate revenues to cover the comparable costs relating to the Sewer System. Rates shall be established and amended from time to time in accordance with law and in conformity with the requirements of the various ordinances authorizing and providing for the security of bonds payable from the revenues of the Water System and the Sewer System.

D. The Corporation shall enforce all proper rules as to collection of delinquent bills and as to discontinuance of service to delinquent customers. The Corporation shall cause all moneys and funds received by it for or on behalf of either of said systems to be deposited in a bank or banks whose deposits are insured by the Federal Deposit Insurance Corporation, or invested in lawful interest bearing obligations, and withdrawn in payment of the proper obligations of the

respective systems, all in accordance with sound and prudent operation and management and in compliance with the various bond ordinances.

E. At no time shall the Corporation be required to undertake or perform any act, deed or thing that would require an expenditure or expenditures of money or funds for either of said systems which is not available from the revenues of the respective system after providing for payment of the principal of and interest on the then outstanding bonded indebtedness of each said system and establishing all necessary and proper reserves and accounts. In the event that funds shall be required for either of said systems for any purpose and in amounts which exceed the funds available for said system, the City will cause such funds to be made available from increased rates or from additional bonded or other lawful indebtedness of the system requiring such funds. PROVIDED, that the necessity, propriety and amount of such rate increase or additional indebtedness, if any, shall be determined by the City.

F. In addition to the operating costs discussed in paragraph "B" above, for its services in managing and operating said systems pursuant to this ordinance, the Corporation shall annually receive the sum of \$8,000.00 from the revenues of the Water System and shall annually receive the sum of \$2,500.00 from the revenues of the Sewer System, or such other amounts as shall be equivalent to the charges for water and sewer service rendered to certain other agencies, departments or facilities of the City and other institutions as approved by the City and paid by the Corporation, plus the sum of One Dollar (\$1.00) per year, which payments shall be full payment and compensation for any and all services rendered hereunder by the Corporation. PROVIDED, however, the Corporation shall pay to the City for this franchise and contract the sum of \$25.00 each month during the term of this agreement, which payment shall be made of and from the separate funds of the Corporation and not from the funds of the Water System or the Sewer System.

SECTION 3: The Corporation is hereby granted the exclusive right, privilege and right of way, during the term of franchise and contract, to place, maintain, construct and operate water and sewer facilities in, through, over and under all streets, alleys, avenues, sidewalks, and public grounds of the City for the purpose of furnishing water and sewer service, and is hereby granted the right of ingress and egress for the purposes aforesaid.

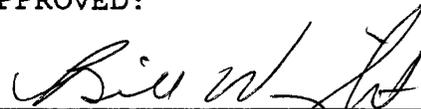
SECTION 4: The term of this franchise and contract shall continue until December 31, 2016.

SECTION 5: The provisions of this franchise and contract shall be accepted in writing by the Corporation within 30 days after the passage and publication of this ordinance, whereupon said franchise and contract shall be in full force and effect from the effective date of this ordinance. However, it is distinctly understood and agreed that no member of the City Council, no other officer or employee of the City and no officer or employee of the Corporation shall be personally liable and responsible under the franchise and contract.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

PASSED this 28th day of January, 1986.

APPROVED:

  
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Bill Wright Mayor

ATTEST:

~~DORIS NUNN~~  
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Martha Hartwick  
Clerk-Treasurer